UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MENOMINEE INDIAN TRIBE OF WISCONSIN,

        Plaintiff,

    v.   Case No. 08-C-950

UNITED STATES DEPARTMENT OF THE INTERIOR,
et al.,

        Defendant.

ORDER DENYING TEMPORARY RESTRAINING ORDER

This matter came before the Court on motion of Plaintiff Menominee Indian Tribe of Wisconsin ("Menominee") for a temporary restraining order enjoining the Defendants United States Department of the Interior and Dirk Kempthorne, Secretary of the United States Department of the Interior (collectively "Interior") from processing Menominee's application to have land in Kenosha, Wisconsin, declared eligible for gambling under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.* ("IGRA") and taken into trust for gaming purposes pursuant to the Indian Reorganization Act, 25 U.S.C. § 465. The parties appeared for a telephone hearing and upon consideration of the arguments of counsel and the entire file in this matter, and for the reasons set forth on the record, Menominee's motion for a temporary restraining order is denied.

In particular, the Court relies upon the reasoning set forth by Judge Richard J. Leon in *St. Croix Chippewa Indians v. Kempthorne*, et al., 2008 WL 4449620 (D.D.C. Sept. 30, 2008), involving essentially the same issue. Based upon Judge Leon's carefully reasoned decision, the

Court concludes that Menominee has failed to establish a likelihood of success on the merits. Specifically, the Court concludes that it is unlikely that the Tribe will be able to establish that there was final agency action to review. It is doubtful that the claim is ripe or that the Tribe has standing at this stage of the proceeding.

The Court further concludes that the Tribe has failed to establish that it would either suffer irreparable harm or that there is no adequate remedy at law. Accordingly, the motion for a temporary restraining order is denied.

SO ORDERED this ___26th___ day of November, 2008.

s/ William C. Griesbach
William C. Griesbach
United States District Judge